

Certificate of Transmission:

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office ((571) 273-0052) on February 11, 2009.

TOWNSEND and TOWNSEND and CREW LLP

By: Jesse Weber

PATENT

Attorney Docket No. 19411-14-1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of:

RAY FRANKULIN, ET AL.

Application No. 09/939,233

Filed: August 24, 2001

For: **PAGING SYSTEM AND
LOCATION VERIFICATION FOR
REMOTE ACCESS TO WAGERING
SYSTEMS**

Customer No. 20350

Confirmation No. 3401

Examiner: Christopher Steven Weber

Art Unit: 3714

Appeal No. 2009-3516

**APPELLANTS' RESPONSE
TO BOARD OF APPEALS**

San Francisco, CA 94111
February 11, 2009

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Patent Office communication dated January 26, 2009 with the attached Board of Patent Appeals and Interferences Docketing Notice which indicates that a review of the file shows that Appellants filed an Appeal Brief on June 23, 2005 but filed no Reply Brief and no request for an oral hearing.

A Reply Brief was filed on or about July 10, 2007. The receipt of the Reply Brief was acknowledged in the Office Action dated November 13, 2007, a copy of which is attached hereto.

Also attached for the records of the Board of Patent Appeals and Interferences is a copy of the Reply Brief dated July 10, 2007.

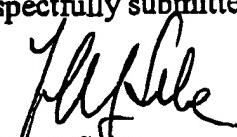
PATENT

Application No. 09/939,233
Page 2

In view of the foregoing, Appellants request that the Reply Brief filed July 10, 2007 be considered when reviewing the appealed rejection.

If it is believed a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 273-4730 (direct dial)

Respectfully submitted,


J. Georg Soka
Reg. No. 24,491

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834
Tel: (415) 576-0200
Fax: (415) 576-0300
JGS:jhw
61805033 v1



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
www.uspto.gov

TJS/SF

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,233	08/24/2001	Ray Frankulin	019411-001410US	3401
20350	7590	11/13/2007	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP			PEZZUTO, ROBERT ERIC	
TWO EMBARCADERO CENTER				
EIGHTH FLOOR			ART UNIT	PAPER NUMBER
SAN FRANCISCO, CA 94111-3834			3714	
			MAIL DATE	DELIVERY MODE
			11/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

JTS



UNITED STATES GOVERNMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09939233	8/24/01	FRANKULIN ET AL.	019411-001410US

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

EXAMINER

Robert E. Pezzuto

ART UNIT	PAPER
----------	-------

3714 20071109

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply brief filed July 10, 2007 has been noted and forwarded to the Board of Appeals.

ROBERT E. PEZZUTO
SUPERVISORY PRIMARY EXAMINER

Certificate of Transmission:

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office ((571) 273-0052) on July 10, 2007.

TOWNSEND and TOWNSEND and CREW LLP

By: James Weller

PATENT**Attorney Docket No. 19411-14-1****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of:

RAY FRANKULIN, ET AL.

Application No. 09/939,233

Filed: August 24, 2001

For: **PAGING SYSTEM AND
LOCATION VERIFICATION FOR
REMOTE ACCESS TO WAGERING
SYSTEMS**

Customer No. 20350

Confirmation No. 3401

Examiner: **Christopher Steven Weber**

Art Unit: **3714**

**APPELLANTS' REPLY BRIEF
PURSUANT TO 37 CFR §41.41**

San Francisco, CA 94111
July 10, 2007

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Examiner's Answer in this appeal dated May 10, 2007, Appellants herewith submit the following Reply Brief.

The substantive portion of the Examiner's Answer addressing the rejection of all pending claims 1-17 is a copy of the reasoning underlying the rejection of the claims in the Final Rejection. Appellants' Brief filed June 27, 2005 addresses these rejections.

Responding to Appellants' arguments, the Examiner takes issue with Appellants' position in the Appeal Brief that the Paravia patent (6,508,710) does not disclose that the user only receives a verification if he is in a predetermined geographic location. Instead, the Examiner's Answer argues that item 1100 in Fig. 11 (and not Fig. 10 as apparently erroneously

PATENT

Application No. 09/939,233

Page 2

stated in the Examiner's Answer) discloses a location verification module and includes steps 1124 and 1126 which analyze a player's geographic location. In addition, the Examiner's Answer observed, column 18 of the Paravia patent discloses the desire to limit a player to a geographic location in order to comply with casino rules and other laws.

Column 18 of Paravia discloses that it uses means to ascertain and verify the physical location of the player, that Fig. 11 is a functional block diagram with player location verification features, and that the system includes, amongst others, a location verification module 1000 that communicates with the gaming server 104 and assists in establishing a communication link with the player. In other words, column 18 of Paravia discusses the desirability to comply with state and other laws which require the casino to establish the geographic location of the player, but not how this is attained.

Column 19 of Paravia discusses how the player's location is determined by Paravia.

Paravia's column 19, beginning with line 8, lists what is required to determine the location of the player, namely:

- (1) the player establishes a connection link, e.g. via the Internet (column 19, lines 6-13)
- (2) the player must enter a gaming selection (column 19, lines 14-20)
- (3) thereafter, the gaming system analyzes the player location (column 19, lines 21-22)
- (4) the analysis is carried out using ANI or caller ID (column 19, lines 31-33) by making use of eight separate parameters (column 19, line 47)
- (5) thereafter, during a "decision step 1126", the system determines if the player is at an authorized location (column 19, lines 58-59)
- (6) if he is not at an authorized location, the communication link is terminated (column 9, lines 58-62)

As is evident from this description, Paravia decides whether a player is at an authorized geographic location after two-way communications between the player and the inquirer (e.g. a casino) have established who the player is, what game(s) he/she wishes to play,

PATENT

Application No. 09/939,233

Page 3

and the system has obtained a number of (i.e. eight) parameters (such as, for example, the call type, time and date of the call, the calling line directory number, etc.) and processed this information so that, thereafter, a decision can be made whether the player is at an authorized location.

Aside from having to establish two-way communications, Paravia needs to process most of the data required to commence play before it can decide whether the player is at an authorized location. This is time-consuming, costly and requires the collection and processing of much data before the decision point is reached whether the player is at an authorized location. This process may further require human interaction, judgments and the like, which can lead to errors and wrong decisions. None of this would be required if the location of the player were initially determined before collecting data establishing a communication link

Like Paravia, the present invention is directed to establishing whether a player is at an authorized geographic location at the time he makes a call. Establishing whether the geographic location is authorized is the only information the present invention, as defined by the pending claims, seeks to obtain. In contrast to Paravia, the present invention does this directly by making it impossible for the player to communicate with the casino if his/her initial call-in comes from an unauthorized geographic location.

According to independent claims 1, 3, 10 and 15, this is done by:

- "... the verification number being received by the user only if the user is located within the predefined geographical area" (claim 1)
- "the user pager ... receiving the authorization number only when within the predefined geographical area" (claim 3)
- "... the verification number travels no further than a predefined geographic location" (claim 10)
- "... the pager receiving the number only when within the predefined geographical area" (claim 15)

Each of the independent claims 1, 3, 10 and 15 requires that the player receives the authorization or verification number only if the player is at an authorized location (claims 1, 3 and 15), or that the verification number travel no further than the predefined geographical area

PATENT

Application No. 09/939,233

Page 4

(claim 10). The present invention as defined by the independent claims can therefore be practiced by providing that the verification or authorization number can either only be received within the predefined geographical area (claims 1, 3 and 15) or travels no further than that predefined geographic location (claim 10). This can be inexpensively done, for example, with simple transmitters and/or receivers and requires no processing of a player's identity, the games that he/she wishes to play, and an analysis of as many as eight parameters, so that, after appropriate computer processing, a decision can be made whether the player is in an authorized geographic location. The present invention accomplishes this in a virtually failproof manner in that communications with the player are cut off and he/she never even receives a response to his original inquiry if he/she is at an unauthorized geographical area, because he/she cannot receive the authorization signals there.

Paravia contains no disclosure to determine whether a given player is inside an authorized geographical area by preventing the player from receiving authorization signals when he is outside such a geographic area. Instead, the system must go through its lengthy analysis, as summarized above, for each player who calls in, irrespective of where he/she is located and/or how far removed from an authorized geographical area he/she might be. This is a time-consuming and complicated task, as discussed in column 19 of the Paravia patent.

The present invention and Paravia only have one thing in common, and that is the desire to determine whether a given player is at an authorized geographical location. Paravia discloses one complicated way of doing this. The present invention proposes a different and much simpler and more reliable way of attaining this goal - one which is not disclosed, suggested or even contemplated by Paravia.

The Examiner's Answer considers Paravia as teaching the present invention, except that it is silent regarding the feature of "receiving and transmitting a verification number to and from the user in order to allow play". However, claim 1 is not limited to receiving and transmitting a verification number. For one, claim 1 does not involve receiving the verification number if the user is outside the geographical area in question, because in such a case the user never even receives the verification number and, therefore, cannot respond to it.

PATENT

Application No. 09/939,233
Page 5

The Response to Argument section of the Examiner's Answer seeks to justify the obviousness rejection on the basis that Paravia:

- teaches a gambling system employing a location verifier system for verifying that a user is located within a predefined geographical area
- teaches the use of various techniques for granting the user access to the sports wagering game (col. 2, lines 11-12)
- is silent regarding the feature of receiving and transmitting a verification number to and from the user in order to allow play
- this feature mentioned immediately above is known in cryptographic verification systems as a handshaking process

The problem with this analysis of Paravia is that it is not relevant to the rejection of claim 1, as well as the rejection of the remaining claims 2-17.

Claim 1, as well as the other claims, is not limited to "various techniques for granting the user access to the sports wagering game". Further, it is true that Paravia is silent regarding receiving and transmitting a verification number to and from the user. Irrespective of whether such a feature is known as a "handshaking process" as asserted in the Examiner's Answer, there can be no handshaking process in the context of the present invention as defined by claim 1 (as well as the other claims) because when the user is not in an authorized area, he never receives a response and, therefore, there will be no handshake.

The present invention involves an ability on the part of the inquirer, and the system employed by it, not to establish contact with the user in the event he/she is outside the authorized geographic location. There is no ability on the part of Paravia not to respond to such a user in response to his/her original inquiry. Instead, Paravia must go through the six steps listed above to determine whether the user is in an authorized geographic location. These six steps necessarily require two-way communications between the user and the inquirer, including the above-discussed use of eight parameters, before a decision can be rendered.

Thus, the difference between claim 1 and Paravia clearly is not limited to "the feature of receiving and transmitting a verification number to and from the user in order to allow play" as asserted in the Examiner's Answer.

PATENT

Application No. 09/939,233
Page 6

The rejection of claim 1 for obviousness over Paravia and Seheidt (5,787,173) was further justified by the argument that "Seheidt teaches a handshaking system in which there is transmission and reception of verification information" As discussed above, claim 1 does not require such a "handshaking". There is no handshaking when the user is outside the predefined geographic area because he never receives any signal from the inquirer. And if he does, there is simply authorization to proceed by establishing a connection with him/her so that he/she can receive the authorization number and proceed with his/her intended game.

Moreover, Seheidt has nothing to do with gaming. It discloses a cryptographic key management system, which plays no role in the claimed invention, where each user generates a key component that he sends out to a receiving user, who sends his own key component to the former. Both key components are mathematically checked by the recipient, and if they pass the checks at both locations, the two key components are combined to thereby form two identical, complete keys at both locations which can be used to initiate the cryptographic engines at both locations. Seheidt discloses an encryption method, as its title indicates, but has no intent, motivation, suggestion or disclosure of any type to identify whether a given person who makes a call to a casino, for example, is or is not within a predefined geographical area. In contrast, the present invention involves no more than preventing users who are not in authorized geographic areas from receiving a verification from the casino, which requires no encryption.

Thus, Paravia and Seheidt both are devoid of any disclosure or suggestion to prevent a given user (or caller) from receiving a response from the casino when he/she is not within the predefined geographic area. They therefore do not render claim 1 obvious.

Claims 2-17, including independent claims 3, 10 and 15, were rejected for obviousness over Paravia and Seheidt in view of Wicks (6,011,485) and LaDue (5,999,808). Paravia and Seheidt were relied on as in the obviousness rejection of claim 1 discussed above. Wicks and LaDue were applied as teaching the use of pagers for placing wagers.

Although Appellants agree that Wicks discloses a paging technology that employs a pager, and LaDue discloses wireless gaming over cellular radio system-controlled channels and switches, neither of the two references has any disclosure concerning limiting the receipt of

PATENT

Application No. 09/939,233

Page 7

verification or authorization signals to persons located within authorized geographical areas so that persons outside these areas do not receive such signals. Independent claims 3, 10 and 15 are therefore not obvious over Paravia, Seheidt, Wicks or LaDue for the same reasons why claim 1 is not obvious, namely because all four references fail to disclose or suggest, singly or in combination, to prevent a person who is not in a predefined geographic area from receiving a verification signal.

Accordingly, claims 2-17 are not obvious over Paravia, Seheidt, Wicks or LaDue.

Conclusion

1. Claim 1 is not obvious over Paravia in view of Seheidt.
2. Claims 2-17 are not obvious over Paravia in view of Seheidt, Wicks or LaDue.

In view thereof, Appellants request that the rejection of claims 1-17 be reversed.

Respectfully submitted,



J. Georg Seka
Reg. No. 24,491

TOWNSEND and TOWNSEND and CREW LLP

Two Embarcadero Center, 8th Floor
San Francisco, California 94111-3834

Tel: (415) 576-0200

Fax: (415) 576-0300

JGS:jhw

61095923 v1

Atty. Docket No. 019411-001410US

PTO FAX NO.: 1-571-273-0052

ATTENTION: Examiner Christopher Steven Weber

Group Art Unit 3714

**OFFICIAL COMMUNICATION
FOR THE PERSONAL ATTENTION OF
EXAMINER CHRISTOPHER STEVEN WEBER**

CERTIFICATION OF FACSIMILE TRANSMISSION

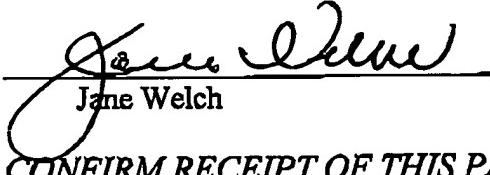
I hereby certify that the following documents in re Application of Ray Frankulin et al., Application No. 09/939,233, filed August 24, 2001 for PAGING SYSTEM AND LOCATION VERIFICATION FOR REMOTE ACCESS TO WAGERING SYSTEMS, are being facsimile transmitted to the Patent and Trademark Office on the date shown below.

Documents Attached

1. Appellants' Response to Board of Appeals, with copies of November 13, 2007 Office Action and July 10, 2007 Reply Brief

Number of pages being transmitted, including this page: 12

Dated: February 11, 2009


Jane Welch

**PLEASE CONFIRM RECEIPT OF THIS PAPER BY
RETURN FACSIMILE AT (415) 576-0300**

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834
Telephone: 415-576-0200
Fax: 415-576-0300
0012